

COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

SHARON S.,

Petitioner,

v.

THE SUPERIOR COURT OF SAN
DIEGO COUNTY,

Respondent;

D037871

(Super. Ct. No. A46053)

ORDER MODIFYING OPINION AND
DENYING PETITION FOR REHEARING

NO CHANGE IN JUDGMENT

ANNETTE F.,

Real Party in Interest.

THE COURT:

It is ordered that the opinion filed herein on October 25, 2001, be modified as follows:

1. On page 11, line 7, after the word "by" in the second sentence of the first full paragraph, add "Annette, amici and" so the sentence reads:

The *Marshall* analysis relied on by Annette, amici and the dissent was not necessary to the determination of the issue before the court in that case.

2. On page 12, line 19, delete one section sign. On page 12, line 20, replace the comma with a semicolon and before "9004" add "see §" so the sentence reads:

(Fam. Code, § 8548 [defining a stepparent adoption as "an adoption of a child by a stepparent where one birth parent retains custody and control of the child"], see § 9004.)

3. On page 13, line 13, replace "authorized second parent adoptions" with: "provided that two unmarried adults may adopt a child" so the sentence reads:

In fact, in 1997 and 1998, the Legislature considered, but did not adopt, a bill that would have provided that two unmarried adults may adopt a child.

4. On page 13, lines 16-17, replace "allow certain unmarried couples to register as domestic partners and allow one so registered" with "allow a member of an unmarried couple that has registered as a domestic partnership as provided in the Family Code" so that the sentence reads:

Notably, after oral argument was held in this matter, the Legislature passed and the Governor signed into law Assembly Bill No. 25, which will, upon becoming effective in January 2002, allow a member of an unmarried couple that has registered as a domestic partnership as provided in the Family Code to adopt a child of his or her domestic partner.

5. Delete the sentence beginning on page 13, line 20 and carrying over to page 14.

6. On page 14, line 11, add at the end of the paragraph, "Although Annette, amici and the dissent urge that a strict application of the applicable statutes will

jeopardize the validity and/or finality of thousands of adoptions that were undertaking using a modified independent adoption procedure, Annette's petition for rehearing cites a number of authorities for the proposition that at least most of those adoptions are no longer subject to viable challenge. As Annette admits, however, the issue of the validity of such adoptions is not presented in this case and has not been briefed by the parties and we do not address it here.

There is no change in the judgment.

The petition for rehearing is denied.

Justices McIntyre and McDonald concur in the modification and denial. Justice Kremer would grant rehearing.

KREMER, P. J.

Copies to: All parties